

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

FILED

SEP 18 2015

Clerk, U.S. District Court
Texas Eastern

FANTHA JOHNSON

§

v.

§

CIVIL ACTION NO. 6:14cv716

GENPAC CORP.

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Fantha Johnson, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The sole named defendant is a company called GenPac Corp.

Johnson's complaint states that he went to sleep in the restroom at GenPac and was awakened by security guards. They told him to walk out and meet the police. While Johnson was walking to the door, the security guards assaulted him.

After review of the pleadings, the magistrate judge issued a report recommending that the lawsuit be dismissed because Johnson failed to show that GenPac or its guards were acting under color of state law, as required to maintain a lawsuit under 42 U.S.C. §1983. Johnson sought and was granted an extension of time to file objections to the report, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

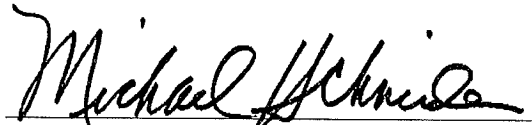
The Court has reviewed the pleadings in this cause and the report of the magistrate judge. Upon such review, the Court has determined the report of the magistrate judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a magistrate judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the report of the magistrate judge (docket no. 8) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim upon which relief may be granted. It is further

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

SIGNED this 18th day of September, 2015.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE